

Town of Frederick Town Board



Eric Doering, Mayor

Tony Carey, Mayor Pro Tem
Gerry Pfirsch, Trustee
Sue Wedel, Trustee

Rafer Burnham, Trustee
Amy Schiers, Trustee
Jim Wollack, Trustee

IM 2010- 008

To Discuss a Request to Extend the Wyndham Hill Public Improvement Fee (PIF)

Agenda Date: June 8, 2010

Attachments:

- a. Request from Wyndham Hill Metropolitan District #3 and Frederick Development Group
- b. Ordinance 900 – Sales Tax Reduction

Issue/Request:

The attached letter was received requesting an extension of the PIF.

Submitted by: Jennifer Simmons
Planning Director

Approved for Presentation: [Signature]
Town Administrator

AV Use Anticipated Projector _____ Laptop _____

Certification of Board Review:

Town Clerk

Date

Detail of Issue/Request:

In April, 2007, the Board of Trustees entered into a Development and Public Improvement Fee (PIF) Collection Agreement with the Wyndham Hill Metropolitan District #3 and Frederick Development Group. The town agreed to cooperate with the Developer to make the Wyndham Town Center more feasible and agreed to waive collection of a portion of the sales tax generated from the project for a certain period of time with a public improvement fee equal to the amount of sales tax waived imposed for the purpose of reimbursing the cost of bonds to be used for public improvements. The sales tax waived was 1%, equal to the public improvement fee to be collected by all retailers in the project.

The developer agreed to develop the site as designed on the Final Development Plan and use the PIF proceeds to pay for public improvements identified in the agreement. Construction of the public improvements was to be within 3 years of the effective date of the agreement. The maximum PIF proceeds identified in the agreement is \$31,000,000. The agreement also provides a termination date meaning the earlier of 15 years from the date of the reduction of sales tax effected by the sales tax ordinance or until the amount of maximum PIF proceeds is generated by the PIF.

This agreement is held between the Town and the Developer. The Developer is not likely to be the Town Center developer and therefore the ability to collect the PIF must be assigned with the Town's consent. The developer has not begun construction within the timeline specified in the agreement, therefore, he is requesting the extension to avoid the expiration of the agreement.

Two items that may require additional discussion with the developer are:

1. Request a copy of the District Agreement that controls the relationship of the developer, owner, PIC and PIF collection agent.
2. Adjust the maximum PIF proceeds to be the lesser of the actual public improvement expense incurred by the developer, the total amount of \$31,000,000, or the amount of PIF revenues generated within 15 years from the date of the new date of the agreement

Legal/Political Considerations:

Legal staff from Samson, Pipis, and Marsh and Grimshaw & Haring have reviewed the request. Jim Hunsaker from Grimshaw & Haring will be present to answer questions.

Alternatives/Options:

The Board has the sole authority to consider the extension, with or without amendments to the agreement.

Financial Considerations:

The Board has approved Ordinance 900 reducing the sales tax in Wyndham Town Center as long as the PIF agreement is in place. If the agreement is not renewed, the sales tax reduction will not occur.

Staff Recommendation:

Staff recommends entering into discussions with the developer to extend the agreement while considering the two items identified above.